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Christopher Bohn
134 Woodbine Drive
Mill Valley, CA 94941
(415)380-8832

April 5th, 2009

Commissioner for Patents
ATTN: Cesar B. Paula
PO Box 1450
Alexandria, VA 22313-1450

re: Patent Application 10/751,021, reply to notice of Final Action mailed January 6th, 2009

Dear Mr. Paula,

I am writing in response to your Notice of Final Action mailed January 6th, 2009, which was a response to my letter to you of July 28th, 2008.

You note in the action that Figures 1a and 2 are not in compliance with 37 CFR 1.84. However, those figures were for support of Claims 1-5 that were later withdrawn – so the figures are not needed. I searched the USPTO website and could not find mention of how to remove figures from the application.

Your action maintains Claims 6-11 and 22-25 as rejected as being anticipated by Musicbrainz.org website, "Introduction, How Does Musicbrainz Work, Metadata Initiative," as found at <http://archive.org>, 1/2001. I have visited the archive and retrieved the information to which you refer, and have attached it as Exhibit A to this letter.

The "MusicBrainz Metadata Initiative" states in the "Introduction" section that, "The MusicBrainz Metadata Initiative" is a content description model for audio and video tracks on the Internet." The "Introduction" section goes on to state that "The MM Initiative uses RDF/XML to facilitate the exchange of audio/video related metadata. This document describes an RDF namespace that should be used in conjunction with the Dublin Core metadata recommendation. This specification will be used by MusicBrainz.org to communicate metadata queries. All the data returned from the server will be in the MM/Dublin Core RDF format. Furthermore, this format will hopefully be used by the Open Source audio codec Vorbis to store audio/video metadata with audio/video tracks."

The document then goes on to specify the "MusicBrainz Elements." All elements are related to the actual production of the audio or video track, such as Lyrics, Genre, etc. MusicBrainz also extends the the base set of qualifiers for the Dublin Core Elements. One such example is that of "Role." The roles are defined on page 11-12 of Exhibit A. These defined a fixed set of roles related to the performance, recording and production of the audio or video. For example, "Performer," "Orchestra," "Engineer" are such examples. All of these elements are considered in the Art to be the "metadata" of the audio or video. These metadata should be considered as separate and distinct from user-generated content that third-party users wish to freely associate with a particular audio or video performance. MusicBrainz associates fixed set of elements as given in the specification, which will used for every metadata query. Those elements as given in the specification, and only those elements, form the data returned in response to a query. The MusicBrainz utility is limited to retrieving the data contained by the MusicBrainz elements, which is the data commonly known in the trade as the "metadata" for the audio or video. What it does not allow, nor anticipate, is the free form addition of user-generated content, a different utility altogether.

In rejecting Claim 6, you state that "Musicbrainz discloses taking audio track information enter by users---third parties---and uploading it to a musicbrainz database network on the Web. If users or music